

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 489 - HB 821

March 2, 2019

SUMMARY OF BILL: Authorizes municipal electric plants, rural electric cooperatives, and telephone cooperatives to provide broadband and other services outside their service area.

ESTIMATED FISCAL IMPACT:

Increase Local Revenue – Exceeds \$100,000

Increase Local Expenditures – Exceeds \$100,000/Permissive

Other Fiscal Impact – Due to multiple unknown factors, a precise increase in state revenue from payment of F&E taxes by rural electric cooperatives providing broadband service cannot reasonably be determined.

Assumptions:

- The proposed language defines broadband as wireline internet transmission speeds of at least 25 Megabits per second (Mbps) for download and 25 Mbps for upload, or the current definition provided by the Federal Communication Commission (FCC), whichever figure is highest. Broadband also includes video programming, cable television, and similar services.
- Under current law:
 - Tenn. Code Ann. § 7-52-601(a), municipal electric plants are authorized to provide internet within their service area.
 - Tenn. Code Ann. § 65-25-102, rural electric cooperatives are nonprofit entities who are authorized to provide telecommunications and broadband internet access within the cooperative's service area.
 - Tenn. Code Ann. § 65-29-104, telephone cooperatives are nonprofit entities who are authorized to provide communication service to its members.
- The proposed language would authorize these entities to provide broadband service outside of their current service area.
- Under current law:
 - Tenn. Code Ann. § 7-52-603, a municipal electric system is required to maintain its broadband service through revenues collected from providing such service.

- Tenn. Code Ann. § 65-25-112 rural electric cooperatives distribute revenues for any fiscal year, in excess of the amount necessary to defray the expenses of the cooperative, to the patrons of the cooperative.
- Tenn. Code Ann. § 65-29-121, telephone cooperatives distribute revenues for any fiscal year, in excess of revenues needed to pay expenses for operating and maintaining facilities, to the members of the cooperative.
- While it is unknown how many municipal electric plants will elect to expand broadband service and the amount of infrastructure costs that will be associated with providing such service, a precise permissive increase in local government expenditures and equal, corresponding permissive increase in local government revenue cannot be determined but is reasonably estimated to exceed \$100,000 statewide.
- Tennessee Code Annotated § 67-4-2007(a) and § 67-4-2105(a), nonprofit businesses are not responsible for paying franchise and excise (F&E) taxes, except for earning and net worth which is garnered outside of the original scope of business for which nonprofit status was originally granted.
- It is assumed that any rural electric cooperative opting to provide broadband service will be responsible for paying F&E taxes; however due to multiple unknown variables such as how many rural electric cooperatives have opted to provide broadband service, the extent of their earnings and net worth earned from broadband service, any increase in such earnings due to the ability to expand the service area where broadband service is provided; a precise increase in state revenue cannot reasonably be determined.

IMPACT TO COMMERCE:

Other Fiscal Impact – Due to multiple unknown factors, a precise impact to business revenue and jobs in Tennessee cannot reasonably be determined.

Assumptions:

- Authorizing municipal electric plants, rural electric cooperatives, and telephone cooperatives to provide broadband coverage outside of their service area will result in a change to business revenues for private companies currently providing broadband services; however it is unknown how many such organizations will opt to expand their service area, when such services will be available to customers, the extent of customers with a new option in broadband service providers, and the extent of any impact to rates charged by private businesses for broadband service as a direct result of the competition provided by electric cooperatives.
- Due to multiple unknown factors a precise impact to business revenue and jobs in Tennessee cannot reasonably be determined.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

/jrh